



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.240 of 2012

M.Balu

.. Petitioner

.Vs.

1.The Assistant Commissioner  
Zone-VI  
Corporation of Chennai  
Chennai-600 005.

2.The Commissioner  
Corporation of Chennai  
Chennai-600 003.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus directing the 1<sup>st</sup> respondent to call for records from the 1<sup>st</sup> respondent pertaining to the order dated 04.09.2010 in proceedings No. m6/e/f/vz;/m4-0278-2008 and quash the same consequently order the 1<sup>st</sup> respondent to grant salary and other emoluments to the petitioner for the suspension period from 19.01.2008 to 17.05.2010.

For Petitioner : Mr.T.S.N.Prabhakaran

For R1 and R2 : Mr.R.Arunmozhi

O R D E R

Writ Petition is filed for issuance of a writ of Certiorarified Mandamus directing the 1<sup>st</sup> respondent to call for records from the 1<sup>st</sup> respondent pertaining to the order dated 04.09.2010 in proceedings No. m6/e/f/vz;/m4-0278-2008 and quash the same, consequently order the 1<sup>st</sup> respondent to grant salary and other emoluments to the petitioner for the suspension period from 19.01.2008 to 17.05.2010.



2(i). According to the petitioner, he was working as Mazdoor in the respondents' Corporation in Malaria Department. His wife had a quarrel with him on 15.01.2008 relating to celebration of Pongal festival. She gave a complaint to the police for the alleged offence under Sections 324 and 506(i) IPC. The petitioner was arrested and subsequently, was released on bail. The 1<sup>st</sup> respondent suspended him from service with effect from 19.01.2008. The 1<sup>st</sup> respondent has paid subsistence allowance only for six months and thereafter, no amount was paid to the petitioner. The petitioner was acquitted by the judgment dated 09.09.2009 in S.C.No.344 of 2008. The petitioner produced the judgment copy in S.C.No.344 of 2008 and requested the 1<sup>st</sup> respondent for reinstatement with back wages and continuity of service.

(ii)The 1<sup>st</sup> respondent levelled three charges against the petitioner on 30.01.2009. The petitioner submitted his explanation. One Mrs.Vijayalakshmi, Assistant Divisional Engineer was appointed as Enquiry Officer and on 04.02.2010, she sought for explanation of the petitioner for the charges levelled against him and the petitioner repeated the reply given by him to the charge memo. The Enquiry Officer without examining any person from the department or general public, held that the charges levelled against the petitioner were proved.

(iii)Based on the said finding, the petitioner was called upon to give his explanation. The petitioner submitted his explanation on 09.02.2010 to the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent by order dated 23.04.2010 imposed punishment of stoppage of increment for two years without cumulative effect and the period of suspension from 19.01.2008 to till the date of joining duty would be treated as leave without salary.

(iv)The petitioner filed an appeal on 25.05.2010 to the 2<sup>nd</sup> respondent. The Appointing Committee considering the appeal filed by the petitioner reduced the punishment of stoppage of increment from two years to one year. The said order was communicated to the petitioner by the 1<sup>st</sup> respondent. Hence, the writ petition.

3.Heard the learned counsel appearing for the petitioner as well as the respondents and perused the materials available on record.

4.From the materials available on record, it is seen that the Enquiry Officer has not examined any witness to prove the charges levelled against the petitioner. She has only obtained statement from the petitioner and held that the charges levelled against the petitioner were proved. The Enquiry Officer has not given any reason for the said finding. The said finding is



perverse and without any material to come to the said conclusion. The Enquiry Officer as well as the 1<sup>st</sup> respondent, Appointing Committee failed to take note of the fact that due to domestic quarrel, the wife of the petitioner gave a complaint to the police, the petitioner was arrested and released on bail. Subsequently, he was acquitted from the criminal case. The respondents have failed to consider the above materials and in mechanical manner, found the petitioner guilty and imposed punishment of stoppage of increment without cumulative effect and treated the suspension period as leave without any salary. The said findings are erroneous and are liable to be set aside and is hereby set aside.

5. In the result, the writ petition stands allowed. The petitioner is entitled to eligible increment and salary from 19.01.2008 till the date of joining service with all attendant benefits. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kj

To

1. The Assistant Commissioner  
Zone-VI  
Corporation of Chennai  
Chennai-600 005.

2. The Commissioner  
Corporation of Chennai  
Chennai-600 003.

+1cc to Mr.T.S.N.Prabhakaran, Advocate, SR.No.44521

+1cc to Mrs.R.Arunmozhi, Advocate, SR.No.44891

W.P.No.240 of 2012

Kak(20/08/2019)